

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

WILLIE CUNNINGHAM,

Petitioner,

-vs-

ROB JEFFRIES, Warden,

Respondent.

:

Case No. 3:05-cv-208

:

District Judge Thomas M. Rose
Chief Magistrate Judge Michael R. Merz

:

**ORDER ADOPTING REPORT AND RECOMMENDATIONS TO DENY LEAVE TO
APPEAL *IN FORMA PAUPERIS***

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #16), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on August 22, 2005, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that Petitioner's Motion for Leave to Appeal *in forma pauperis* (Doc. No. 13) be, and it hereby is, DENIED. This case remains pending on Petitioner's Objections to the Magistrate Judge's Report and Recommendations and Supplemental Report and Recommendations which recommend that the Petition be dismissed as barred by the statute of limitations.

August 29, 2005.

s/**THOMAS M. ROSE**

Thomas M. Rose
United States District Judge